

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

DAVID BISHIOP,

Plaintiff,

v.

Case No. 2:19-cv-02127

LG ELECTRONICS USA, INC.,
VGOD, INC., and
NEW AGE INVESTMENTS OF CORDOVA, LLC
d/b/a CREATE A CIG CORDOVA,

JURY DEMANDED

Defendants.

ANSWER AND DEFENSES TO FIRST AMENDED COMPLAINT

Defendant New Age Investments of Cordova, LLC d/b/a Create a Cig Cordova (“Defendant”), for its Answer and Defenses to Plaintiff’s First Amended Complaint (“Complaint”), states as follows:

PARTIES, JURISDICTION AND VENUE

1. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 1 of the Complaint, and therefore those allegations are denied.

2. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 2 of the Complaint, and therefore those allegations are denied.

3. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 3 of the Complaint, and therefore those allegations are denied.

4. Paragraph 4 of the Complaint is a legal conclusion to which no response is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations, and therefore those allegations are denied.

5. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 5 of the Complaint, and therefore those allegations are denied.

6. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 6 of the Complaint, and therefore those allegations are denied.

7. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 7 of the Complaint, and therefore those allegations are denied.

8. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 8 of the Complaint, and therefore those allegations are denied.

9. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 9 of the Complaint, and therefore those allegations are denied.

10. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 10 of the Complaint, and therefore those allegations are denied.

11. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 11 of the Complaint, and therefore those allegations are denied.

12. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 12 of the Complaint, and therefore those allegations are denied.

13. Defendant states that the document referenced in Paragraph 13 of the Complaint speaks for itself, and denies any allegations in Paragraph 13 of the Complaint inconsistent therewith.

14. Defendant states that the document referenced in Paragraph 14 of the Complaint speaks for itself, and denies any allegations in Paragraph 14 of the Complaint inconsistent therewith.

15. Defendant states that the document referenced in Paragraph 15 of the Complaint speaks for itself, and denies any allegations in Paragraph 15 of the Complaint inconsistent therewith.

16. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 16 of the Complaint, and therefore those allegations are denied.

17. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 17 of the Complaint, and therefore those allegations are denied.

18. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 18 of the Complaint, and therefore those allegations are denied.

19. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 19 of the Complaint, and therefore those allegations are denied.

20. Defendant admits that it is an LLC formed under the laws of Tennessee, that its principal place of business is at 465 N Germantown Parkway, Suite 108 in Cordova, TN 38018, that it does business in Tennessee at Create A Cig Cordova, and that it may be served at 465 N. Germantown Parkway, Ste. 108, Cordova, Tennessee 38018. Defendant denies the remaining allegations set forth in Paragraph 20.

21. Defendant admits the allegations set forth in Paragraph 21 of the Complaint.

22. Defendant admits it sells e-cigarette products in Tennessee. Defendant denies the remaining allegations set forth in Paragraph 22.

23. Defendant admits it sells e-cigarette products in Tennessee. Defendant denies the remaining allegations set forth in Paragraph 23.

24. Defendant admits it sells e-cigarette products in Tennessee. Defendant denies the remaining allegations set forth in Paragraph 24.

25. Defendant denies the allegations set forth in Paragraph 25 of the Complaint.

26. Paragraph 26 of the Complaint is a legal conclusion to which no response is required. The statutes referenced in Paragraph 26 of the Complaint also speak for themselves, and Defendant denies any allegations in Paragraph 26 of the Complaint inconsistent therewith. By way of further response, Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the remaining allegations set forth in Paragraph 26 of the Complaint, and therefore those allegations are denied.

27. Paragraph 27 of the Complaint is a legal conclusion to which no response is required. The statutes referenced in Paragraph 27 of the Complaint also speak for themselves, and Defendant denies any allegations in Paragraph 27 of the Complaint inconsistent therewith. By way of further response, Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the remaining allegations set forth in Paragraph 27 of the Complaint, and therefore those allegations are denied.

ALLEGATIONS APPLICABLE TO ALL COUNTS

28. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 28 of the Complaint, and therefore those allegations are denied.

29. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 29 of the Complaint, and therefore those allegations are denied.

30. Defendant states that the document referenced in Paragraph 30 of the Complaint speaks for itself, and denies any allegations in Paragraph 30 of the Complaint inconsistent therewith. Defendant further states that it lacks sufficient information or knowledge to form a

belief as to the truth of the statements in the alleged document referenced in Paragraph 30 of the Complaint, and therefore those allegations are denied.

31. Defendant states that the document referenced in Paragraph 31 of the Complaint speaks for itself, and denies any allegations in Paragraph 31 of the Complaint inconsistent therewith. Defendant further states that it lacks sufficient information or knowledge to form a belief as to the truth of the statements in the alleged document referenced in Paragraph 31 of the Complaint, and therefore those allegations are denied.

32. Defendant states that the document referenced in Paragraph 32 of the Complaint speaks for itself, and denies any allegations in Paragraph 32 of the Complaint inconsistent therewith. Defendant further states that it lacks sufficient information or knowledge to form a belief as to the truth of the statements in the alleged document referenced in Paragraph 32 of the Complaint, and therefore those allegations are denied.

33. Defendant states that the document referenced in Paragraph 33 of the Complaint speaks for itself, and denies any allegations in Paragraph 33 of the Complaint inconsistent therewith. Defendant further states that it lacks sufficient information or knowledge to form a belief as to the truth of the statements in the alleged document referenced in Paragraph 33 of the Complaint, and therefore those allegations are denied.

34. Defendant states that the document referenced in Paragraph 34 of the Complaint speaks for itself, and denies any allegations in Paragraph 34 of the Complaint inconsistent therewith. Defendant further states that it lacks sufficient information or knowledge to form a belief as to the truth of the statements in the alleged document referenced in Paragraph 34 of the Complaint, and therefore those allegations are denied.

35. Defendant states that the document referenced in Paragraph 35 of the Complaint speaks for itself, and denies any allegations in Paragraph 35 of the Complaint inconsistent therewith. Defendant further states that it lacks sufficient information or knowledge to form a belief as to the truth of the statements in the alleged document referenced in Paragraph 35 of the Complaint, and therefore those allegations are denied.

36. Defendant states that the document referenced in Paragraph 36 of the Complaint speaks for itself, and denies any allegations in Paragraph 36 of the Complaint inconsistent therewith. Defendant further states that it lacks sufficient information or knowledge to form a belief as to the truth of the statements in the alleged document referenced in Paragraph 36 of the Complaint, and therefore those allegations are denied.

37. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 37 of the Complaint, and therefore those allegations are denied.

38. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 38 of the Complaint, and therefore those allegations are denied.

39. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 39 of the Complaint, and therefore those allegations are denied.

40. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 40 of the Complaint, and therefore those allegations are denied.

41. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 41 of the Complaint, and therefore those allegations are denied.

42. Defendant states that the document referenced in Paragraph 42 of the Complaint speaks for itself, and denies any allegations in Paragraph 42 of the Complaint inconsistent therewith. Defendant further states that it lacks sufficient information or knowledge to form a belief as to the truth of the statements in the alleged document referenced in Paragraph 42 of the Complaint, and therefore those allegations are denied.

43. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 43 of the Complaint, and therefore those allegations are denied.

44. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 44 of the Complaint, and therefore those allegations are denied.

45. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 45 of the Complaint, and therefore those allegations are denied.

46. Defendant denies the allegations set forth in Paragraph 46 of the Complaint.

47. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 47 of the Complaint, and therefore those allegations are denied.

48. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 48 of the Complaint, and therefore those allegations are denied.

49. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 49 of the Complaint, and therefore those allegations are denied.

50. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 50 of the Complaint, and therefore those allegations are denied.

51. Defendant denies the allegations set forth in Paragraph 51 of the Complaint as stated.

52. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 52 of the Complaint, and therefore those allegations are denied.

53. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 53 of the Complaint, and therefore those allegations are denied.

54. Defendant denies the allegations set forth in Paragraph 54 of the Complaint as stated.

55. Paragraph 55 of the Complaint is a legal conclusion to which no response is required. The statute referenced in Paragraph 55 of the Complaint also speaks for itself, and Defendant denies any allegations in Paragraph 55 of the Complaint inconsistent therewith. By way of further response, Defendant states that it lacks sufficient information or knowledge to

form a belief as to the truth of the remaining allegations set forth in Paragraph 55 of the Complaint, and therefore those allegations are denied.

56. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 56 of the Complaint, and therefore those allegations are denied.

57. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 57 of the Complaint, and therefore those allegations are denied.

58. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 58 of the Complaint, and therefore those allegations are denied.

59. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 59 of the Complaint, and therefore those allegations are denied.

60. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 60 of the Complaint, and therefore those allegations are denied.

61. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 61 of the Complaint, and therefore those allegations are denied.

62. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 62 of the Complaint, and therefore those allegations are denied.

63. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 63 of the Complaint, and therefore those allegations are denied.

64. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 64 of the Complaint, and therefore those allegations are denied.

COUNT I – STRICT LIABILITY
Defendant LG
The Subject Battery

65. Defendant hereby incorporates its previous responses to the foregoing paragraphs of the Complaint as if set forth fully herein.

66. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 66 of the Complaint, and therefore those allegations are denied.

67. The statute referenced in Paragraph 67 of the Complaint also speaks for itself, and Defendant denies any allegations in Paragraph 67 of the Complaint inconsistent therewith. By way of further response, Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the remaining allegations set forth in Paragraph 67 of the Complaint, and therefore those allegations are denied.

68. The statute referenced in Paragraph 68 of the Complaint speaks for itself, and Defendant denies any allegations in Paragraph 68 of the Complaint inconsistent therewith. By way of further response, Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the remaining allegations set forth in Paragraph 68 of the Complaint, and therefore those allegations are denied.

69. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 69 of the Complaint, and therefore those allegations are denied.

70. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 70 of the Complaint, and therefore those allegations are denied.

71. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 71 of the Complaint, and therefore those allegations are denied.

72. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 72 of the Complaint, and therefore those allegations are denied.

73. Paragraph 73 of the Complaint is a legal conclusion to which no response is required. The statute referenced in Paragraph 73 of the Complaint also speaks for itself, and Defendant denies any allegations in Paragraph 73 of the Complaint inconsistent therewith. By way of further response, Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the remaining allegations set forth in Paragraph 73 of the Complaint, and therefore those allegations are denied.

74. Paragraph 74 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of those allegations, and therefore those allegations are denied.

75. Paragraph 75 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of those allegations, and therefore those allegations are denied.

76. Paragraph 76 of the Complaint is a legal conclusion to which no response is required. The statute referenced in Paragraph 76 of the Complaint speaks for itself, and Defendant denies any allegations in Paragraph 76 of the Complaint inconsistent therewith. By way of further response, Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the remaining allegations set forth in Paragraph 76 of the Complaint, and therefore those allegations are denied.

77. Paragraph 77 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of those allegations, and therefore those allegations are denied.

78. Paragraph 78 of the Complaint is a legal conclusion to which no response is required. Paragraph 78 of the Complaint also contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the remaining allegations set forth in Paragraph 78 of the Complaint, and therefore those allegations are denied.

79. Paragraph 79 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant denies the allegations as to Defendant.

80. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 80 of the Complaint, and therefore those allegations are denied

81. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 81 of the Complaint, and therefore those allegations are denied

82. Paragraph 82 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations, and therefore those allegations are denied.

COUNT II – NEGLIGENCE

Defendant LG

The Subject Battery

83. Defendant hereby incorporates its previous responses to the foregoing paragraphs of the Complaint as if set forth fully herein.

84. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 84 of the Complaint, and therefore those allegations are denied.

85. The statute referenced in Paragraph 85 of the Complaint also speaks for itself, and Defendant denies any allegations in Paragraph 85 of the Complaint inconsistent therewith. By way of further response, Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the remaining allegations set forth in Paragraph 85 of the Complaint, and therefore those allegations are denied.

86. The statute referenced in Paragraph 86 of the Complaint also speaks for itself, and Defendant denies any allegations in Paragraph 86 of the Complaint inconsistent therewith. By

way of further response, Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the remaining allegations set forth in Paragraph 86 of the Complaint, and therefore those allegations are denied.

87. Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations set forth in Paragraph 87 of the Complaint, and therefore those allegations are denied.

88. Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations set forth in Paragraph 88 of the Complaint, and therefore those allegations are denied.

89. Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations set forth in Paragraph 89 of the Complaint, and therefore those allegations are denied.

90. Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations set forth in Paragraph 90 of the Complaint, and therefore those allegations are denied.

91. Paragraph 91 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

92. Paragraph 92 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

93. Paragraph 93 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of those allegations, and therefore those allegations are denied.

94. Paragraph 94 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of those allegations, and therefore those allegations are denied.

95. Paragraph 95 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of those allegations, and therefore those allegations are denied.

96. Paragraph 96 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of those allegations, and therefore those allegations are denied.

97. Paragraph 97 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

98. Paragraph 98 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is

deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

99. Paragraph 99 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

COUNT III – BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY

**Defendant LG
The Subject Battery**

100. Defendant hereby incorporates its previous responses to the foregoing paragraphs of the Complaint as if set forth fully herein.

101. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the remaining allegations set forth in Paragraph 101 of the Complaint, and therefore those allegations are denied.

102. The statute referenced in Paragraph 102 of the Complaint also speaks for itself, and Defendant denies any allegations in Paragraph 102 of the Complaint inconsistent therewith. By way of further response, Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the remaining allegations set forth in Paragraph 102 of the Complaint, and therefore those allegations are denied.

103. Paragraph 103 of the Complaint is a legal conclusion to which no response is required. Paragraph 103 of the Complaint also contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

104. The statute referenced in Paragraph 104 of the Complaint speaks for itself, and Defendant denies any allegations in Paragraph 104 of the Complaint inconsistent therewith. By way of further response, Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the remaining allegations set forth in Paragraph 104 of the Complaint, and therefore those allegations are denied.

105. Paragraph 105 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

106. Paragraph 106 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of those allegations, and therefore those allegations are denied.

107. Paragraph 107 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of those allegations, and therefore those allegations are denied.

108. Paragraph 108 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

109. Paragraph 109 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is

deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

110. Paragraph 110 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

111. Paragraph 111 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

COUNT IV – VIOLATION OF TENNESSEE CONSUMER PROTECTION ACT

**Defendant LG
The Subject Battery**

112. Defendant hereby incorporates its previous responses to the foregoing paragraphs of the Complaint as if set forth fully herein.

113. Defendant states that the statutes referenced in Paragraph 113 speak for themselves, and denies any allegations inconsistent therewith.

114. Defendant states that the statute referenced in Paragraph 114 speaks for itself, and denies any allegations inconsistent therewith.

115. Defendant states that the statute referenced in Paragraph 115 speaks for itself, and denies any allegations inconsistent therewith.

116. Paragraph 116 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

117. Paragraph 117 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

118. Paragraph 118 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of those allegations, and therefore those allegations are denied.

119. Paragraph 119 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

120. Paragraph 120 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

121. Paragraph 121 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

122. Paragraph 122 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is

deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

COUNT V – STRICT LIABILITY

**Defendant VGOD, Inc.
The Subject E-Cigarette**

123. Defendant hereby incorporates its previous responses to the foregoing paragraphs of the Complaint as if set forth fully herein.

124. Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations set forth in Paragraph 124 of the Complaint, and therefore those allegations are denied.

125. Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations set forth in Paragraph 125 of the Complaint, and therefore those allegations are denied.

126. Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations set forth in Paragraph 126 of the Complaint, and therefore those allegations are denied.

127. Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations set forth in Paragraph 127 of the Complaint, and therefore those allegations are denied.

128. Paragraph 128 of the Complaint is a legal conclusion to which no response is required. The statute referenced in Paragraph 128 of the Complaint also speaks for itself, and Defendant denies any allegations in Paragraph 128 of the Complaint inconsistent therewith. By way of further response, Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the remaining allegations set forth in Paragraph 128 of the Complaint, and therefore those allegations are denied.

129. Paragraph 129 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

130. Paragraph 130 of the Complaint also contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

131. Paragraph 131 of the Complaint is a legal conclusion to which no response is required. The statute referenced in Paragraph 131 of the Complaint speaks for itself, and Defendant denies any allegations in Paragraph 131 of the Complaint inconsistent therewith. By way of further response, Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the remaining allegations set forth in Paragraph 131 of the Complaint, and therefore those allegations are denied.

132. Paragraph 132 of the Complaint is a legal conclusion to which no response is required. Paragraph 132 of the Complaint also contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

133. Paragraph 133 of the Complaint is a legal conclusion to which no response is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

134. Paragraph 134 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

135. Paragraph 135 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

136. Paragraph 136 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

137. Paragraph 137 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

COUNT VI – NEGLIGENCE
Defendant VGOD, Inc.
The Subject E-Cigarette

138. Defendant hereby incorporates its previous responses to the foregoing paragraphs of the Complaint as if set forth fully herein.

139. Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations set forth in Paragraph 139 of the Complaint, and therefore those allegations are denied.

140. Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations set forth in Paragraph 140 of the Complaint, and therefore those allegations are denied.

141. Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations set forth in Paragraph 141 of the Complaint, and therefore those allegations are denied.

142. Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations set forth in Paragraph 142 of the Complaint, and therefore those allegations are denied.

143. Paragraph 143 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

144. Paragraph 144 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

145. Paragraph 145 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

146. Paragraph 146 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

147. Paragraph 147 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

148. Paragraph 148 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of those allegations, and therefore those allegations are denied.

149. Paragraph 149 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

150. Paragraph 150 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

COUNT VII – BREACH OF IMPLIED WARRANTY OF MERCHANT ABILITY

**Defendant VGOD, Inc.
The Subject E-Cigarette**

151. Defendant hereby incorporates its previous responses to the foregoing paragraphs of the Complaint as if set forth fully herein.

152. The statute referenced in Paragraph 152 of the Complaint speaks for itself, and Defendant denies any allegations in Paragraph 152 of the Complaint inconsistent therewith. By way of further response, Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the remaining allegations set forth in Paragraph 152 of the Complaint, and therefore those allegations are denied.

153. Paragraph 153 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

154. Paragraph 154 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of those allegations, and therefore those allegations are denied.

155. Paragraph 155 of the Complaint also contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

156. Paragraph 156 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is

deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

157. Paragraph 157 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

158. Paragraph 158 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

159. Paragraph 159 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

COUNT VIII – VIOLATION OF TENNESSEE CONSUMER PROTECTION ACT

**Defendant VGOD, Inc.
The Subject E-Cigarette**

160. Defendant hereby incorporates its previous responses to the foregoing paragraphs of the Complaint as if set forth fully herein.

161. The statute referenced in Paragraph 161 of the Complaint speaks for itself, and Defendant denies any allegations in Paragraph 161 of the Complaint inconsistent therewith.

162. The statute referenced in Paragraph 162 of the Complaint speaks for itself, and Defendant denies any allegations in Paragraph 162 of the Complaint inconsistent therewith.

163. Paragraph 163 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

164. Paragraph 164 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

165. Paragraph 165 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

166. Paragraph 166 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

167. Paragraph 167 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

168. Paragraph 168 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is

deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

169. Paragraph 169 of the Complaint contains allegations that are not directed toward Defendant, and therefore no response from Defendant is required. To the extent a response is deemed required, Defendant states that it lacks sufficient information to form a belief as to the truth of the allegations, and therefore those allegations are denied.

COUNT IX – STRICT LIABILITY
Defendant Create A Cig Cordova
The Subject Battery

170. Defendant hereby incorporates its previous responses to the foregoing paragraphs of the Complaint as if set forth fully herein.

171. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 171 of the Complaint, and therefore those allegations are denied.

172. The statute referenced in Paragraph 172 of the Complaint speaks for itself, and Defendant denies any allegations in Paragraph 172 of the Complaint inconsistent therewith. By way of further response, Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the remaining allegations set forth in Paragraph 172 of the Complaint, and therefore those allegations are denied.

173. Defendant denies the allegations set forth in Paragraph 173 of the Complaint.

174. Defendant denies the allegations set forth in Paragraph 174 of the Complaint.

175. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 175 of the Complaint, and therefore those allegations are denied.

176. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 176 of the Complaint, and therefore those allegations are denied.

177. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 177 of the Complaint, and therefore those allegations are denied.

178. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 178 of the Complaint, and therefore those allegations are denied.

179. Defendant denies the allegations set forth in Paragraph 179 of the Complaint.

180. Defendant denies the allegations set forth in Paragraph 180 of the Complaint.

181. Defendant denies the allegations set forth in Paragraph 181 of the Complaint.

182. Paragraph 182 of the Complaint is a legal conclusion to which no response is required. The statute referenced in Paragraph 182 of the Complaint speaks for itself, and Defendant denies any allegations in Paragraph 182 of the Complaint inconsistent therewith. By way of further response, Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the remaining allegations set forth in Paragraph 182 of the Complaint, and therefore those allegations are denied.

183. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 183 of the Complaint, and therefore those allegations are denied.

184. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 184 of the Complaint, and therefore those allegations are denied.

185. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 185 of the Complaint, and therefore those allegations are denied.

186. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 186 of the Complaint, and therefore those allegations are denied.

187. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 187 of the Complaint, and therefore those allegations are denied.

188. Defendant denies the allegations set forth in Paragraph 188 of the Complaint.

COUNT X – NEGLIGENCE
Defendant Create A Cig Cordova
The Subject Battery

189. Defendant hereby incorporates its previous responses to the foregoing paragraphs of the Complaint as if set forth fully herein.

190. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 190 of the Complaint, and therefore those allegations are denied.

191. The statute referenced in Paragraph 191 of the Complaint speaks for itself, and Defendant denies any allegations in Paragraph 191 of the Complaint inconsistent therewith. By way of further response, Defendant states that it lacks sufficient information or knowledge to

form a belief as to the truth of the remaining allegations set forth in Paragraph 191 of the Complaint, and therefore those allegations are denied.

192. Defendant denies the allegations set forth in Paragraph 192 of the Complaint.

193. Defendant denies the allegations set forth in Paragraph 193 of the Complaint.

194. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 194 of the Complaint, and therefore those allegations are denied.

195. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 195 of the Complaint, and therefore those allegations are denied.

196. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 196 of the Complaint, and therefore those allegations are denied.

197. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 197 of the Complaint, and therefore those allegations are denied.

198. Paragraph 198 of the Complaint is a legal conclusion to which no response is required. To the extent a response is deemed required, those allegations are denied.

199. Defendant denies the allegations set forth in Paragraph 199 of the Complaint.

200. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 200 of the Complaint, and therefore those allegations are denied.

201. Defendant denies the allegations set forth in Paragraph 201 of the Complaint.

202. Defendant denies the allegations set forth in Paragraph 202 of the Complaint.

203. Defendant denies the allegations set forth in Paragraph 203 of the Complaint.

204. Defendant denies the allegations set forth in Paragraph 204 of the Complaint.

205. Defendant denies the allegations set forth in Paragraph 205 of the Complaint.

COUNT XI – BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY

**Defendant Create A Cig Cordova
The Subject Battery and The Subject E-Cigarette**

206. Defendant hereby incorporates its previous responses to the foregoing paragraphs of the Complaint as if set forth fully herein.

207. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 207 of the Complaint, and therefore those allegations are denied.

208. The statute referenced in Paragraph 208 of the Complaint speaks for itself, and Defendant denies any allegations in Paragraph 208 of the Complaint inconsistent therewith. By way of further response, Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the remaining allegations set forth in Paragraph 208 of the Complaint, and therefore those allegations are denied.

209. Defendant denies the allegations set forth in Paragraph 209 of the Complaint.

210. Defendant denies the allegations set forth in Paragraph 210 of the Complaint.

211. Paragraph 211 of the Complaint is a legal conclusion to which no response is required. To the extent a response is deemed required, those allegations are denied as stated.

212. Paragraph 212 of the Complaint is a legal conclusion to which no response is required. To the extent a response is deemed required, those allegations are denied as stated.

213. Defendant states that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations set forth in Paragraph 213 of the Complaint, and therefore those allegations are denied.

214. Paragraph 214 of the Complaint is a legal conclusion to which no response is required. To the extent a response is deemed required, those allegations are denied as stated.

215. Paragraph 215 of the Complaint is a legal conclusion to which no response is required. To the extent a response is deemed required, Defendant denies the allegations set forth in Paragraph 215 of the Complaint.

216. Paragraph 216 of the Complaint is a legal conclusion to which no response is required. To the extent a response is deemed required, Defendant denies the allegations set forth in Paragraph 216 of the Complaint.

217. Defendant denies the allegations set forth in Paragraph 217 of the Complaint.

218. Defendant denies the allegations set forth in Paragraph 218 of the Complaint.

COUNT XII – VIOLATION OF TENNESSEE CONSUMER PROTECTION ACT

**Defendant Create A Cig Cordova
The Subject Battery and The Subject E-Cigarette**

219. Defendant hereby incorporates its previous responses to the foregoing paragraphs of the Complaint as if set forth fully herein.

220. Defendant states that the statutes referenced in Paragraph 220 speak for themselves, and denies any allegations inconsistent therewith.

221. Defendant states that the statute referenced in Paragraph 221 speaks for itself, and denies any allegations inconsistent therewith.

222. Defendant states that the statutes referenced in Paragraph 222 speak for themselves, and denies any allegations inconsistent therewith.

223. Paragraph 223 of the Complaint is a legal conclusion to which no response is required. To the extent a response is deemed required, Defendant denies the allegations set forth in Paragraph 223 of the Complaint.

224. Paragraph 224 of the Complaint is a legal conclusion to which no response is required. To the extent a response is deemed required, Defendant denies the allegations set forth in Paragraph 224 of the Complaint.

225. Defendant denies the allegations set forth in Paragraph 225 of the Complaint.

226. Defendant denies the allegations set forth in Paragraph 226 of the Complaint.

227. Defendant denies the allegations set forth in Paragraph 227 of the Complaint.

228. Defendant denies the allegations set forth in Paragraph 228 of the Complaint.

229. Defendant denies the allegations set forth in Paragraph 229 of the Complaint.

230. Defendant denies that Plaintiff is entitled to any relief requested in the paragraph following Paragraph 229 of the Complaint.

231. Defendant denies any allegation contained the Complaint that is not specifically admitted by Defendant.

ADDITIONAL DEFENSES

Discovery and investigation may reveal that any one or more of the following defenses should be available to Defendant in this matter. Defendant therefore asserts said defenses in order to preserve the right to assert them. Upon completion of discovery, and if the facts warrant, Defendant may withdraw any of these defenses as may be appropriate. Further, Defendant reserves the right to amend its Answer to assert additional defenses, cross-claims, counterclaims, and other claims and defenses as discovery proceeds. Further answering and by way of additional defense, Defendant states as follows:

FIRST DEFENSE

Defendant states that Plaintiff has failed to state a claim upon which relief can be granted as to this Defendant.

SECOND DEFENSE

Defendant affirmatively pleads all protection afforded to Defendant as a Seller pursuant to Tennessee Code Annotated § 29-28-106, including but not limited to the protections afforded to Defendant pursuant to Tennessee Code Annotated § 29-28-106(4). Defendant asserts that it purchased any and all vaporizers and/or batteries from entities that are subject to service of process through the Tennessee Long Arm Statute. Specifically, Defendant purchased any and all batteries at issue from Vapor Beast, LLC or LA Vapor, Inc. and purchased any and all vaporizers at issue from LA Vapor, Inc. Additionally, Plaintiff has asserted claims in the Complaint against the entities that manufactured the subject vaporizer and battery.

THIRD DEFENSE

Defendant affirmatively pleads the right to all other defenses and rights set forth in the Tennessee Products Liability Act, including Tennessee Code Annotated § 29-28-101 through 29-28-108, inclusive. Further Defendant alleges that the provisions of the Tennessee Consumer Protection Act, Tenn. Code Ann. 47-18-101, et seq., do not apply to the claims asserted by Plaintiff, as all claims asserted by Plaintiff constitute a “product liability action” as defined by Tenn. Code Ann. 29-28-102 (6), and accordingly, the limitations applicable to “product liability actions” stated in Tenn. Code Ann. 29-28-106 apply to the Plaintiff’s claims.

FOURTH DEFENSE

Defendant did not design or manufacture the subject device or battery.

FIFTH DEFENSE

Defendant did not act negligently or wantonly.

SIXTH DEFENSE

Defendant denies that it either owed or breached any duty to Plaintiffs.

SEVENTH DEFENSE

Plaintiff's claims are barred in whole or in part by the applicable statute of limitations and/or statute of repose.

EIGHTH DEFENSE

Plaintiff's claims are barred due to Plaintiff's own actions, failure to act, negligence and/or legal fault.

NINTH DEFENSE

Plaintiff's claims are barred by virtue of his assumption of the risks or conditions.

TENTH DEFENSE

Plaintiff failed to mitigate or otherwise act to lessen or reduce the injuries and damages alleged in the Complaint.

ELEVENTH DEFENSE

Plaintiff's claims are barred by the doctrines of unclean hands, waiver, acquiescence, estoppel, laches, and/or ratification.

TWELFTH DEFENSE

Plaintiff's alleged damages were not caused by any acts or omissions of Defendant, its agents, representatives or employees.

THIRTEENTH DEFENSE

The damages alleged in the Complaint were not caused by any alleged negligence of Defendant, but were the result of intervening and/or supervening causes and the actions of third parties.

FOURTEENTH DEFENSE

Plaintiff's claims are barred by the absence of any causal connection, proximate or cause in fact, between any act of Defendant and Plaintiff's alleged injuries or damages.

FIFTEENTH DEFENSE

Plaintiff's claims are barred as Plaintiff's alleged injuries and damages are the proximate result of the acts and omissions of persons other than Defendant and for whom Defendant is not responsible.

SIXTEENTH DEFENSE

Defendant avers that the alleged injuries and damages of Plaintiff, if any, which are strictly denied, resulted from unrelated, pre-existing, or subsequent conditions unrelated to Defendant's conduct and for which Defendant is not liable.

SEVENTEENTH DEFENSE

If Plaintiff has suffered damages as a result of any alleged conduct by Defendant, the degree of such damages attributable to such conduct is negligible, and a *de minimus* factor, in determining any alleged damages suffered by Plaintiff.

EIGHTEENTH DEFENSE

Any liability that might otherwise be imposed upon Defendant is subject to reduction by the application of the doctrine of comparative fault pursuant to Tennessee case law and Tenn.

Code Ann. 29-11-107. Plaintiff has alleged that various persons and entities other than Defendant are at fault for Plaintiff's alleged injuries. In light of these allegations, while Defendant expressly denies any liability to Plaintiff, Defendant is constrained to plead, alternatively, that if the Plaintiff's allegations are proven to be true against any of the other defendants, and/or if the Plaintiff or any non-parties are found to be at fault, then the doctrine of comparative fault applies to such fault of the other parties and non-parties.

NINETEENTH DEFENSE

Defendant denies that Plaintiff is entitled to damages of the nature, type or amount sought in the Complaint.

TWENTIETH DEFENSE

Plaintiff has failed to join necessary or indispensable parties, including but not limited to, the entities identified in Defendant's "Second Defense."

TWENTY-FIRST DEFENSE

Plaintiff's claims are barred because Defendant did not violate any applicable laws, regulations, ordinances, codes or industry standards.

TWENTY-SECOND DEFENSE

Plaintiff has not sustained an ascertainable loss of property or money caused by the acts or omissions of Defendant, as required by the Tennessee Consumer Protection Act, Tenn. Code Ann. 47-18-101, et seq.

TWENTY-THIRD DEFENSE

Plaintiff has not suffered any actual injury or damages caused by the acts or omissions of Defendant.

TWENTY-FOURTH DEFENSE

Plaintiff has not suffered a compensable injury caused by the acts or omissions of Defendant.

TWENTY-FIFTH DEFENSE

Plaintiff's claims are barred by the doctrine of res judicata or the "entire controversy doctrine."

TWENTY-SIXTH DEFENSE

Plaintiff's claims, in whole or in part, are subject to judicial estoppel.

TWENTY-SEVENTH DEFENSE

Plaintiff's claims are barred by virtue of the doctrine of necessity.

TWENTY-EIGHTH DEFENSE

Plaintiff's claims are barred by the doctrine of preemption, based on state and federal law, including but not limited to Tenn. Code Ann. 29-28-104 and the Federal Drug Administration Regulations applicable to Electronic Nicotine Delivery Systems.

TWENTY-NINTH DEFENSE

Plaintiff's attorneys fees and expenses of litigation claim fails because it is derivative of Plaintiff's other failed claims.

THIRTIETH DEFENSE

The Complaint fails to state a claim for punitive damages, and an award of punitive damages in favor of Plaintiff would violate those clauses of the Constitution of the United States related to privileges and immunities, excessive fines, double jeopardy, due process and equal

protection. Plaintiff's claim for punitive damages cannot be sustained because an award of punitive damages under Tennessee law by a jury that is not instructed on the limits of punitive damages imposed by the applicable principles of deterrence and punishment and is not instructed to award only that amount of punitive damages as reflects a necessary relationship between the amount of punitive damages and actual harm in question would violate this Defendants' due process and equal protection rights guaranteed by the Fourteenth Amendment to the United States Constitution and by Article I, §§ 8, 17 of the Tennessee Constitution.

Plaintiff's claim for punitive damages cannot be sustained because an award of punitive damages under Tennessee law by a jury that is not expressly prohibited from awarding punitive damages, in whole or in part, on the basis of an invidiously discriminatory characteristic, including but not limited to the Defendants' corporate status, would violate the Defendant's due process and equal protection rights guaranteed by the Fourteenth Amendment to the United States Constitution and by Article I, §§ 8, 17 of the Tennessee Constitution.

THIRTY-FIRST DEFENSE

If it is determined that any form of recovery has been made by way of judgment, settlement, or otherwise, for all or any part of the alleged injuries or damages, Defendant claims the benefit of such recovery by way of set-off, payment, credit, recoupment, accord and satisfaction, or otherwise.

THIRTY-SECOND DEFENSE

Defendant affirmatively pleads the right to all defenses available pursuant to Tenn. Code Ann. 29-30-101 – 29-39-104, inclusive, known as the Tennessee Civil Justice Act of 2011, including but not limited to, Tenn. Code Ann. 29-39-102, which places limits on awards in civil

actions; Tenn. Code Ann. 29-39-103, which sets forth procedures and requirements for findings of fact by the trier of fact; and Tenn. Code Ann. 29-39-104, which sets forth procedures and limits on claims for punitive damages.

THIRTY- THIRD DEFENSE

Inasmuch as the Complaint does not describe the alleged underlying claims with sufficient particularity to enable Defendant to determine all of its legal, contractual and equitable rights, Defendant reserves the right to amend and/or supplement its Answer to assert any and all applicable defenses ascertained through further investigation and discovery.

WHEREFORE, Defendant prays that the Complaint and each and every count thereof be dismissed with prejudice, that Plaintiff be denied any relief whatsoever, that Defendant be granted judgment against Plaintiff as to each and every count of the Complaint and recover from Plaintiff Defendant's reasonable attorneys' fees and expenses and all costs of this action, and that this Court grant Defendants-such other and further relief as this Court deems just and proper.

JURY DEMAND

Defendant respectfully demands a trial by jury herein.

Respectfully submitted,

/s/Albert G. McLean
Albert G. McLean (TN #5150)
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*Attorneys for Defendant New Age Investments of
Cordova, LLC d/b/a Create A Cig Cordova*

CERTIFICATE OF SERVICE

This is to certify that on this day I caused a copy of the foregoing document to be served on counsel of record by the Clerk of Court using the CM/ECF system, including the following counsel:

David W. Hill, Esq.
Jason Yasinsky, Esq.
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Counsel for Plaintiff David Bishop

this 28th day of February, 2019.

/s/ Albert G. McLean
Albert G. McLean